

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JAMES MATTISON

Plaintiff,

vs.

**STIPULATION OF
DISCONTINUANCE**

Index No.: 6:10-cv-06571

EPHRAIM M. KILMER and LYDIA Z. KILMER,
EMPIRE PIPELINE, INC.,
EMPIRE STATE PIPELINE COMPANY, LLC,
ESPC, LLC,
EMPIRE STATE PIPELINE,
MILLENNIUM PIPELINE COMPANY, L.L.C.,
SENECA RESOURCES CORPORATION,
SENECA ENERGY PARTNERS, L.P.
a/k/a ENERGY TACTICS, INC.,
SENECA ENERGY II, LLC,
LEIDY HUB, INC.,
HORIZON POWER, INC.,
HORIZON ENERGY HOLDINGS, INC.,
HORIZON ENERGY DEVELOPMENT, INC.,
NATIONAL FUEL GAS DISTRIBUTION CORPORATION,
NATIONAL FUEL GAS COMPANY,
NATIONAL FUEL GAS RESOURCES, INC.,
NATIONAL FUEL GAS SUPPLY CORPORATION,
ST. CLAIR PIPELINE COMPANY, LLC,

Defendants.

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, the attorneys of record for all parties to the above entitled action, that whereas no party hereto is an infant or incompetent person for whom a committee has been appointed and no person not a party has an interest in the subject matter of the action, that the action is hereby discontinued on the merits, including any counterclaim, against EPHRAIM M. KILMER and LYDIA Z. KILMER, without prejudice. The plaintiff may seek leave of court to re-file this action should

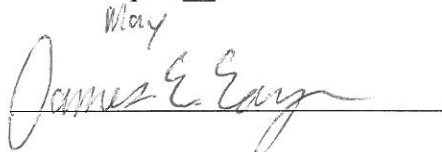
he develop credible, admissible evidence, supported by a sworn statement, to show that the incident occurred on property owned by the above named defendants.

IT IS FUTHER STIPULATED AND AGREED that the action is hereby discontinued without costs to either party as against the other.

IT IS FUTHER STIPULATED AND AGREED that the Statute of Limitations is tolled until the Note of Issue is filed.

This stipulation may be filed without further notice with the Clerk of the Court.

Dated: Buffalo, New York
~~April 30~~, 2013

May


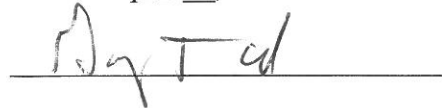
James E. Eagan, Esq.
Feldman Kieffer, LLP
Attorneys for Defendants
Ephraim M. Kilmer and
Lydia Z. Kilmer
110 Pearl Street, Suite 400
Buffalo, New York 14202

May
~~April 20~~, 2013



Christopher M. Pannozzo, Esq.
Shaw & Shaw, PC
Attorneys for Plaintiff
4819 South Park Avenue
Hamburg, New York 14075

May 23
~~April~~, 2013



Gary J. O'Donnell, Esq.
Law Office of Laurie G. Ogden
Attorneys for Defendants
28 East Main Street
Suite 1230
Rochester, New York 14614